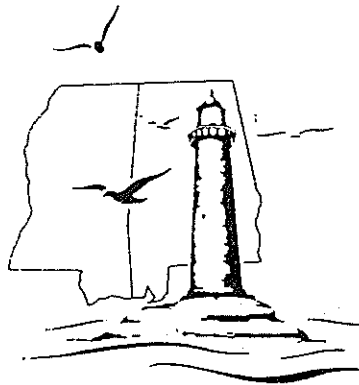


WATER LOG

*A Legal Reporter of the
Mississippi-Alabama Sea Grant Consortium*



SPECIAL ISSUE: THE TED CONTROVERSY

Turtles, Trawlers, and TEDs: What Happens When the Endangered Species Act Conflicts with Fishermen's Interests

With replies by Tee John Mialjevich of the Concerned Shrimpers of America and Michael Weber of the Center for Environmental Education

SEA TURTLES AND TEDs: A MISDIRECTED AND COUNTERPRODUCTIVE EFFORT TO SAVE SEA TURTLES

by
Tee John Mialjevich

Federally or court-mandated adoption of Turtle Excluder Devices (TEDs) by the American shrimp trawling fleet will not save any species of sea turtle from extinction. Mandatory TED utilization, however, will almost certainly cause economic hardship, dislocation and ruin to an important contributor to American culture and the economy.

The federal government and environmentalists both concede that the principle reasons for the decline of sea turtle populations are historical patterns of exploitation and loss of nesting habitat. Indeed, to this very day anyone who visits countries or islands south of the Rio Grande knows that curios and meals made from sea turtles are still commonplace.

Let us look at one species about which the federal government and environmentalists are especially concerned, the critically endangered Kemp's ridley turtle. All parties involved note that 47,000 females nested in 1947 at a major nesting beach in Mexico, but that number has declined to an annual average of 624 since 1978. All parties involved blame the precipitous decline on heavy exploitation of the eggs and turtles themselves during the 1950s and the 1960s.

The federal government and environmentalists now state that the American shrimp fleet must adopt TEDs in order to save the Kemp's ridley turtles. It seems to us that these attempts are too little, too late, misdirected, and merely an attempt to exert control over a group of faultless fishermen who are not, and never have been, contributors to the decline of sea turtle populations.

Let us dispel one myth and misunderstanding which has been in the background during much of the sea turtle controversy. I am talking about the notion that shrimpers are awash in money, and can afford government mandated inefficiencies.

Nothing is further from the truth. A classic economic study of the shrimp industry was conducted by Louisiana State University in 1978. It sheds light on why we who truly represent shrimp harvesters have decided that we have no choice but to fight mandatory use of TEDs. That study indicated that the average profit margin for shrimp vessels was at that time no more than that for any other small business—in the range of 10 percent or less. (In fact, a recent study of offshore shrimpers by the National Marine Fisheries Service suggested that profit margins can be as low as 3 percent or less.) What this means is that if TED use causes a shrimp loss of even the low estimate of 10 percent, then we shrimpers might be out of business. These figures are probably worse today, since fuel prices and competition have risen and shrimp prices have fluctuated due to large international shrimp supplies.

I'm sure that someone, say up in Chicago, looks at the high price tag on shrimp in the market, and wonders who is getting all the money. The financial institutions, supply houses, shipyards, fuel docks, and middlemen all get their share, but the shrimp fishermen are certainly not the ones with financial room to spare.

Let us dispel another myth. The federal government has defended its belief that the shrimp fleet is responsible for a large part of current turtle mortalities,

especially for the Kemp's ridley. The government has defended this hypothesis by concocting estimates of mortality based on "sophisticated statistical techniques." There is nothing sophisticated about those techniques. Rather, the government has taken a few observations, made a lot of assumptions, and used simplistic extrapolation or projection techniques to come up with numbers we feel are woefully high.

Even if one accepts the NMFS mortality figure of 158 Kemp's ridleys attributed to the northern Gulf shrimp fleet, then I must compare that figure to an ultra-conservative estimate of annual recruits (500 females x 110 recruits = 55,000 juvenile Kemp's ridleys). In other words, the highest conceivable estimates of turtle mortality due to shrimp trawls should suggest that shrimpers are responsible for a minuscule .0029 mortality rate. That, by definition, is incidental. Also, the few turtles that are incidentally caught are not nesting females.

The fact is that American shrimpers, especially in the Gulf of Mexico, are only insignificant players in the demise of sea turtle populations. Sea turtles are only very rarely or incidentally caught by shrimp trawling efforts, and those few that do get caught are normally returned to the water alive.

What has caused the decline of sea turtle populations? Certainly, decline of nesting habitat as well as a still-existing directed turtle fishery in the Caribbean rim and Mexico are major contributors. In addition, pollution by oil and plastics has also taken a heavy toll. A number of researchers have documented observations of turtles eating oil balls and plastics, both of which cause heavy mortality. (To be kind, turtles are not exactly the smartest animals in the world.) Furthermore, a House of Representatives Merchant Marine and Fisheries subcommittee report blames a worldwide annual loss of up to 100,000 sea turtles on floating plastics.

If shrimp trawling efforts are *not* to blame for the decline of sea turtle populations, then the next question must be this: if all shrimpers install TEDs, will sea turtles be saved from extinction? Sadly, the answer is that most researchers when cornered do not know, and the answer is probably no. Severe economic hardship and ruin might be imposed on shrimpers in the Gulf of Mexico for naught. An important way of life and contribution to American folklore, culture, and the economy might be sacrificed with no positive benefit in return.

Why are the federal government and environmentalists so stubbornly sticking to their intention to mandate the use of TEDs? I believe that there are several reasons. They are rooted in hardheadedness, inability to admit error, and sadly, an attitude that "we've got to do something"—even if futile and ineffective. The federal government and environmentalists are attempting to use the Endangered Species Act to force shrimpers to use TEDs only because they are powerless to do anything about the real culprits—continuing turtle exploitation in foreign countries, decline of nesting habitat, and ocean pollution. This is an example of closing the door to your own barn while the horses escape from another!

I know that some accuse us shrimpers of not compromising or reneging, and cite the negotiation process of fall, 1986. That is false for several reasons. First, in those negotiations, a non-negotiable assumption was that TEDs work. We feel that TEDs do not work because (1) we commonly encounter debris in our trawls which would not permit ejection of theoretically trapped turtles, and (2) because of the small margin of profit under which we operate, any shrimp loss will be unacceptable. Recent Louisiana State University studies on TEDs indicate that important systematic and single-incident losses of shrimp can occur.

There were other defects in the federally-sponsored negotiations between environmentalists and the shrimp industry. Because the so-called representatives of the shrimp industry did not understand the problems and feelings of those they purported to represent, they cannot be presumed to have negotiated on their behalf. As evidence, I note that two organizations have recanted the endorsement of the "compromise" by their own representatives, and I have received massive support for my organization throughout the five states bordering the Gulf of Mexico. I alone did not sign the "negotiated" agreement because I was not allowed to put on the table several propositions which were true compromises.

Contrary to what some might allege, I did offer constructive proposals to assist sea turtles and sea turtle populations at those negotiations and at other times. Our organization has proposed an expansion of sea turtle hatchery (head-starting) efforts. We have even proposed to help fund hatchery efforts.

Some have said that the current hatchery efforts for Kemp's ridleys in Texas are experimental and have not proven successful until females return to nest. However, there is absolutely no reason to believe that these efforts will not be successful. Why not move these hatcheries to Mexico and the natural nesting beaches to take advantage of the vaunted willingness of the Mexican government to cooperate? Artificial breeding programs and hatcheries have been used successfully for other endangered species such as alligators, whooping cranes, wolves, etc. Contrary to allegations, we know that these efforts are successful and have come to be important to the restoration of endangered species.

The chief spokesman of the environmental groups has stated publicly that programs like these would only create more turtles for shrimpers to kill in the northern Gulf. That is nonsense. In spite of the large populations of Kemp's ridleys that existed in the 1950s and 1960s, there is not one scintilla of evidence anywhere to indicate that catches of sea turtles then were any different from what they are today—highly unusual and incidental at most. Sea turtles are not and never have been common in the nearshore waters of the Gulf of Mexico where shrimp trawlers are active, even when populations were high. Shrimpers had no role in the historical decline of sea turtle populations, and will have no impact on rebuilding those populations through workable, practical, proven practices.

One thing that disappoints me about this entire controversy is that the position of the environmentalists is contradictory to fundamental tenets of the environmental movement as it solidified and matured in the 1960s and 1970s. Basic to the environmental movement has been a distrust of the "technological fix." Environmentalists, for example, have always thought it more desirable to conserve energy rather than install lots of expensive pollution controls at power plants which are built to meet ever-growing energy demands.

A TED is a "technological fix" which will not solve the problem of the decline of sea turtle populations, because that is not where the root problem lies. Unfortunately, the federal government and environmentalists have teamed up in an attempt to force shrimpers to use TEDs. By doing so, attention is being diverted from the real problem, and is thus counterproductive.

Why does the federal government still insist that the device they developed works? We believe that this can be readily explained by simple bureaucratic intransigence, inability to admit mistakes, and faulty TED testing techniques. Environmentalists have in turn naively depended on TED data generated under

ideal conditions, not at all like what we normally encounter during our shrimp trawling operations. Federal bureaucrats are either unable or unwilling (or both) to admit they have wasted millions of taxpayer dollars to develop a device that we who operate in the real world know will cause intolerable losses of shrimp (money), without saving the species they are intended to protect. What a tragedy!

We have minimally demanded a comprehensive testing program for TEDs in the Gulf of Mexico under a variety of conditions. Such a comprehensive testing program would ensure that both turtles and shrimpers would be protected. No such reasonable program has been formulated.

Constructive alternatives, other than the disastrous and ineffective methods that smug bureaucrats and environmentalists are trying to force upon us, already exist. There are many things, such as population augmentation and control of plastics and oil pollution, that can be done to help sea turtle species survive. Mandatory TED use is not the answer to the demise of sea turtle species. Unfortunately, we shrimpers are the only group over which the federal government and environmentalists might exert control, via the Endangered Species Act, even though such control does nothing toward solving the problem.

Even in parts of the Gulf and South Atlantic where "cannonball shooters" (a device from which TEDs were derived) are used when cannonball jellyfish or "jellyballs" are thick, these devices are immediately removed from nets when not needed due to shrimp loss. To piously thump the Endangered Species Act, to state that TEDs really work and that shrimpers just won't adopt them injects a condescending attitude that we shrimpers find insulting.

Events of the last year have begun to reek of a mean-spirited, omniscient attempt to impose an ineffective technological fix on shrimpers. The families of shrimp fishermen will likely experience hardship, ruin, or worse, and the true causes of decline of sea turtle populations will not effectively be addressed. Can anyone really wonder why we have no choice but to fight mandatory use of TEDs?

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